REMARKS

Claims 15, 16, 20 and 20-34 have been cancelled in confirmation of the results of the restriction requirement. These claims previously were withdrawn from further consideration by the Examiner.

Applicant's attorney also has reviewed the specification and made corrections, in order to avoid double usage of certain reference numerals, in order to correct other reference numerals, and in order to insure that mention is made of all reference numerals shown in the drawings, as requested by the Examiner.

THE DRAWINGS

All of the drawings have been reviewed and corrections to the reference numerals have been made, and changes have been made in Figures 16, 20, 21, and 23 in order to make the Figures consistent with one another. Figure 23 also has been amended in response to the Examiner's objections, as it is explained in greater detail below.

The objection to the drawings that there is no mention of the reference numeral 282 in the description does not require action because reference numeral 282 is mentioned on page 36, line 4, of the specification.

The objection to the lower right hand corner of Figure 23, it is believed, has been clarified by the changes marked in red on the accompanying copy of Figure 23.

The "non-specified panel" is not a panel but merely might be interpreted to be one because of the incorrect drawing of the "bleed boundary" 280 for the printing process (see page 35, lines 2 and 3 of the Specification). Furthermore, the "non-specified division line" is, in fact, a continuation of the bleed boundary line 280. Therefore, reference numeral 280 has been added to indicate the bleed boundary line 280 in the vicinity of the problem noted by the Examiner. Furthermore, the portions of the bleed boundary line 280 which are marked in red with parallel crossed lines should be dashed lines like the rest of the bleed boundary line 280. The confusion is caused by the incursion of the bleed boundary line 280 towards the interior of the blank at four spots, each circled in red, in which it is proposed to make the bleed boundary line 280 dashed. This should cure the problem.

All of the proposed changes are marked in red on the enclosed copy of the drawings, and the Examiner's approval of the changes is respectfully requested.

REJECTION UNDER §112

The rejection of the claims under 35 U.S.C. §112 is believed to have been corrected by the extensive amendments to the claims set forth above.

The claims also have been reduced in number to a total of thirteen (13) claims in order to facilitate their examination and allowance.

35 U.S.C. §102 REJECTIONS

The rejection of Claims 1, 2, 6-8 and 13 as being anticipated by Maroszek is respectfully traversed.

Referring now to Figures 16 and 23 of the drawings, and pages 25-28 of the Specification, the carrier set forth in Claim 1 includes a central support structure 162 comprising a pair of vertical panels 204 and 206.

The carrier has a pair of foldable receptacles 164 and 166 each of which is secured to one of the vertical panels 204 or 206. The receptacles are foldable. (See page 25, lines 11 through 17.)

The carrier has a transverse support panel 242 foldably secured at one edge to rotate about that edge when the carrier is being unfolded.

The transverse support panel 242 has a size and shape to fit into and engage the vertical side wall structure when

both the vertical side wall structure and the transverse support panel are either partially or fully unfolded so as to hold the carrier open.

This is a significant feature of the invention which has the great benefit, explained in the first paragraph on page 4 of the Specification, of making the carrier very easy and quick to fill.

Thus, for example, when the carriers are used at concession stands in sports stadiums, or similar food counters elsewhere, the concession stand employee merely has to press on the opposite edges of the folded carrier to unfold it.

The transverse panel automatically is pulled downwardly from its folded position, and engages the side wall 172 or 174 of the carrier. This prevents the carrier from relapsing to a folded condition due to the resilience of the folded-up cardboard.

In other words, the transverse support panel 242 automatically moves into engagement with the interior wall of the side wall structure and holds it open.

This allows the concession stand worker to use both hands to load beverages and food into the carrier. If the carrier were not automatically held open, the worker would have

to use one hand to hold it open while loading it with the other hand, thus greatly reducing the speed of filling the order.

This feature solves a problem which the Applicant recognized, in that, in prior carriers proposed for the same use, the carrier often would not stand up by itself. This problem is explained in the last paragraph on page 2 of the Specification.

As it is explained in the top paragraph on page 4, and in the third full paragraph on page 5, the transverse support panel automatically enters into the confines of the receptacles when the carrier unfolds to automatically hold the receptacles open until heavy beverage cups, etc., are placed onto the transverse support panels to force them down all the way to the bottom.

This easy and quick operation is explained in the last paragraph on page 6 and the first two lines of page 7 of the Specification as follows:

> The carrier is relatively quick and easy to use. The food server prepares the food to the customer's order. Then, he or she merely unfolds the side-wall structure and places the carrier on a flat surface. Then the server loads the carrier with food. Because the carrier stands erect on its own, the server can use both hands to load the food into the carrier.

Claim 1 also calls for a pair of holding structures, each extending underneath one of the transverse support panels when the carrier is unfolded. This holds up the transverse support panels to support a load. The holding structure is indicated at 186 in Figures 16 and 20. Basically, the holding structure forms the bottom wall of the receptacle. (See page 27, last paragraph and page 28, lines 1 through 3.)

Claim 1 also calls for a pair of barrier structures for dividing each of the two receptacles into at least two compartments. Several embodiments of this structure are shown in Figures 16, 22, and 23 and are described on pages 28 through 30 under the heading "POP-UP SIDE BARRIERS".

Figure 16 shows an embodiment in which there are two separate barrier structures 182 and 184 each of which can be used selectively.

Figure 22 shows a single barrier structure 270 which also can be used selectively, as it will be explained in greater detail below.

MAROSZEK DISTINGUISHED

The Maroszek patent does not anticipate Claim 1.

Maroszek does not show or suggest any means for holding the receptacles open for loading, and certainly does not show a transverse support panel for the purpose.

The Examiner has argued that the bottom panel 26 is such a "transverse support panel" but this is not correct.

The claim requires that the transverse support panel be foldably connected to move into the receptacle and engage a side wall of the receptacle to hold it open. Maroszek does not show this.

Furthermore, the claim calls for a holding structure in each receptacle, the holding structure extending underneath the transverse support panel. There is no such holding structure in the Maroszek carrier because Maroszek's bottom consists of only one panel, namely, panel 26.

Moreover, the Maroszek carrier appears to suffer from the same problem which the structure of Claim 1 solves. That is, Maroszek shows no structure to automatically hold the carrier erect after it has been unfolded from the position shown in Figure 5. That is, when the structure is set up as shown in Figure 2, there is nothing which will prevent the carrier from folding sideways before any cans or bottles are inserted into the openings. In fact, in order to make it stand up, the user must use the following procedure:

1. Push the edges of the folded blank to unfold it as shown in Figure 5.

2. Fold up the reinforcing flaps 50, 52, 54 and 56 of the end panels 42 and 44 shown in Figure 2. (See Column 4, lines 63 through Column 5, line 4.)

3. Fold up the end panels 42 and 44, being certain that the central divider 32 fits into the slot 46, and into the corresponding slot 48 on the other end panel 44.

This is much slower and more cumbersome than Applicant's carrier, in which the carrier is unfolded and propped open in one stroke.

All of Claims 3, 4, and 6 through 10 depend from and are allowable with Claim 1. However, each claim is allowable on its own merits.

Claim 3 is directed to a very advantageous feature of the barrier structures used in the carrier of the invention. In this feature, each of the barrier structures is selectively foldable to a first position in which it forms a divider, and to a second position in which it is out of the way and leaves the receptacle undivided. This is illustrated, for example, in Figure 16 where the divider structure 184 is folded out of the way, and the barrier structure 182 is folded upwardly to a position in which it serves to give side support for objects such as a beverage can 218, or a beverage cup, etc., to keep it from tipping.

This construction is highly advantageous in that a person using the carrier can select whether to erect the barrier structures or not. As it is explained in the last paragraph on page 29 through line 10 on page 30, the user thus can custom-fit the carrier to the food order being processed. Solid food objects can be placed in the compartment in which the barrier is down, and a beverage container can be placed in the compartment in which the barrier is up.

All of the barriers can be raised or all can be lowered, or any combination of raised and lowered barriers can be used in accordance with the current need.

The single barrier construction of Figure 22 is explained on page 34. The single barrier 270 can be raised to provide lateral support in two separate compartments, or lowered to leave the receptacle undivided. This structure has benefits similar to those of the embodiment shown in Figure 16, except that it is somewhat less adaptable and may be somewhat stronger in some uses.

Maroszek has no barrier structures which are selectively usable or disabled. The panels 28 and 30 are fixed in place and the beverages must be positioned in the holes provided. There is no possibility of providing space without dividers to facilitate carrying items other than beverage

containers or the like. Applicant's convertible barrier structures are neither shown nor suggested by Maroszek.

Claim 4 depends from and is allowable with Claim 3. It specifies that the foldable barrier structures are formed by cut-outs from the various panels. This has the advantages of minimizing the use of material, and solidifying the vertical panel and bottom structures when the barriers are not needed.

Claim 6 depends from and is allowable with Claim 3 and specifies that the barrier structure is selected from the group consisting of a single element or two separate elements, as shown in Figures 16 and 22 and described above.

Claim 7 depends from Claim 1 and describes the further feature of the invention in which the vertical panels are hinged together only at the upper edges.

This feature is shown in Figures 12, 13, 16, 17, 18, and 19. The two panels 204 and 206 are hinged together at the upper edges 208 so that they can swing apart as illustrated in Figure 17. This allows one to swing the panels apart and read the advertising material printed on the insides of the panels as shown in Figure 18. This feature of the invention is explained further on pages 30-31 and the top of page 32 of the Specification.

Maroszek's two partial panel sections 38 and 40 are glued together, as it is specifically described in Column 2, lines 64-66 of the Maroszek patent. Therefore, there are no panels to swing apart. Neither this feature nor its advantages are shown or suggested by Maroszek.

Claim 8 depends from Claim 1 and specifies that the transverse support panel spans substantially the entire distance between the vertical panel and a parallel side wall opposite the vertical panel. This feature is illustrated in Figure 21, as well as Figure 16. It is also illustrated in Figure 2, which shows an earlier embodiment of the same concept.

This construction has a substantial advantage in that it extends far enough towards the opposite wall so that it provides a strong support for the side wall which presses against it, thus forcefully resisting the relapsing of the carrier into the folded condition. Simultaneously, it greatly strengthens the bottom structure of the receptacle by forming multiple layers in various sections of the bottom, as illustrated in Figure 2, when combined with the holding structure supporting it.

Maroszek does not show or suggest this feature, and merely has a single bottom wall panel. Multiple panel layers are not suggested.

Claim 9 depends from Claim 1 and specifies that the holding structure includes foldable flanges extending from the lower edges from each of the side walls and one of the vertical panels, and that the flanges are selectively secured together to form a bottom structure for the receptacle. This is illustrated in Figures 16 and 20, as well as in Figure 23, and in the earlier embodiments of the invention shown in Figures 1-5 and 12-15.

This construction is very advantageous and is described under the heading "HOLDING PANEL STRUCTURE" on pages 32 and 33. It also is described in the description of earlier Figures of the drawings such as Figures 1, 2, 4, and 5.

The bottom structure of the Maroszek carrier is not even similar. Again, Maroszek has a single ply bottom and does not use the concept of flanges extending from the lower edges of the vertical and side wall panels and being joined together.

Claim 10 depends from Claim 9 and specifies that the transverse support panel is secured to an adjacent one of the flanges at one corner of the bottom structure, and that two other flanges are secured to one another at the opposite corner of the bottom structure and that the flanges are folded diagonally at the corners. This structure provides a strong,

overlapping and automatically unfolding bottom structure which is not even suggested by Maroszek.

HART DISTINGUISHED

The rejection of Claim 1-4, 9 and 10 as being anticipated by Hart also is respectfully traversed.

The Hart carrier has a serious disadvantage as compared with the carrier of the present invention. Unlike Applicant's carrier, the Hart carrier cannot be completely manufactured at a manufacturing plant prior to folding it for shipment to the user. Instead, the carrier is cut, folded and partially glued together at a factory, using a method illustrated in Figure 6A. However, the bottoms of the receptacles cannot be formed at the factory without preventing the structure from being folded flat for shipment. If it were finished at the factory, and shipped fully erect, the shipping costs for shipping them to the customer would be so large as to make the product prohibitively expensive. Therefore, as it is described in Column 3, lines 19-26:

> At this point the partly formed cartons may be shipped in a flat condition by the carton manufacturer to the carton packer, who then can proceed to complete erection and gluing of the cartons.
>
> When the packer receives the collapsed or flattened carton blanks, the cartons are erected as shown in Figure 6A, and the bottom wall panels are folded over into

> overlapped relation and secured to each other as shown in Figure 6B.

This means that the user of the Hart carrier must have either automatic or manual gluing and unfolding facilities in order to even finish the carriers so that they can be used.

This would be totally unacceptable if the carrier were to be used at a concession stand in a ballpark, or some other retail food distribution point.

It also would be very disadvantageous when used by a beverage bottler in that the bottler also would have to take the time to erect the folded carrier parts, fold the flaps either by hand or machine and glue them, then place the vertical panels back-to-back and glue them together as shown in Figure 6C, as it is explained in Column 3, lines 41-47, of the Hart Patent.

In contrast, Applicant's carrier can be fabricated completely at a manufacturing plant and then folded flat and shipped to the end user who merely has to unfold the carrier and fill it. This is true whether the filling party is a mechanized bottler, or is a concession stand worker or restaurant worker. Applicant's carrier is made ready to use with one simple motion.

Claim 1 recites a structure for automatically moving the transverse support panel into one of the receptacles when the side wall structure is unfolded. Also, each of the holding structures automatically is formed underneath one of the

transverse support panels when the carrier is unfolded. Thus, not only does the carrier unfold with one easy motion, but simultaneously the transverse support panel is moved into the receptacle to prop it open until the object to be carried is positioned in the receptacle.

Hart's bottom structure is very different and very conventional. Hart does not anticipate Claim 1.

The selectively foldable barrier structure of Claims 3 and 4 also is not shown or suggested by Hart.

Hart does not show or suggest the specific features of dependent Claims 9 and 10 as discussed above.

KATZENMEYER DISTINGUISHED

The rejection of Claims 1-5 and 14 as being anticipated by Katzenmeyer also is traversed. The Katzenmeyer carrier is quite different in construction from Applicant's carrier recited in Claim 1. For example, neither of the panels 26 and 31 cited by the Examiner as satisfying the "transverse support panel" limitation is positioned to "support a load" as specifically recited in Claim 1. Similarly, there are no "holding structures", each formed underneath one of the transverse support panels when the carrier is unfolded, and there is no structure for automatically moving the transverse

support panel into one of the receptacles when the side wall structure is unfolded, also as specifically recited in Claim 1.

Again, as with the other references, there is nothing provided, as far as can be told from reading the patent, for supporting the carrier in an unfolded position and preventing it from folding back upwardly into the folded position shown in Figure 3. Neither the concept nor any structure for performing the function are disclosed by Katzenmeyer.

Similarly, the separately foldable barrier structures of Claim 3 and the specific cut-outs used to form them as recited in Claim 4, also are missing from Katzenmeyer.

Claim 14 will be discussed in detail below, .but there is nothing in Katzenmeyer even remotely similar to the multi-flange bottom structure recited in this claim.

NON-OBVIOUSNESS

The rejection of Claims 11 and 12 as being obvious over Hart is respectfully traversed.

Claims 11 and 12 have been rewritten. Claim 11 is independent and Claims 12, 13 and 14 are dependent from Claim 11.

Amended Claim 11 is substantially the same as Claim 1 except that instead of a barrier structure, Claim 11 calls for a tab extending from one of the side edges of each of the

transverse support panels to engage one wall of each of the side wall structures to improve the holding power of the transverse support panel to hold the carrier receptacles open automatically upon unfolding of the carrier. The tabs in question are items 201 and 203 shown in Figure 16.

This feature is neither shown nor suggested by any of the cited references. The tab improves the frictional contact between the transverse support panel and the side wall of the receptacle, even if the tab does not reach the opening. This is because the tab will bend and increase the surface contact area between the transverse support panel and the side wall to better hold the transverse support panel in place.

Claim 12 also calls for an opening in the side wall against which the transverse support panel rubs. The openings are shown at 209 and 211 in Figure 23. They are positioned and dimensioned to receive the tab 201 or 203 during its movement while unfolding and thereby hold the transverse support panel in a position to hold said carrier receptacles open.

Claim 13 depends from Claim 11, and Claim 14 depends from Claim 13. Claim 14 recites the same structure as Claim 10, in which adjacent flanges are secured together at opposite corners of the bottom wall to provide for an automatically folding and unfolding bottom wall structure.

In view of the foregoing, it is believed that the Examiner's rejection of Claims 11 and 12 is properly directed against Claims 10 and 14.

The Examiner asserts and takes "Official Notice" that the use of diagonal fold lines traversing a corner of a flap is a well known structure in this art. Whether or not this construction is "well" known, Applicant's attorney is aware of only three references showing such a construction, all of which have been cited in an Information Disclosure Statement filed in this patent application. These references are:

U.S. Patent 2,991,908 to Consecu
U.S. Patent 5,927,593 to Berkowitz et al.
U.S. Patent 6,443,308 to Davis

A copy of each of these patents accompanies this Amendment so as to facilitate the Examiner's consideration. If these references are not representative of those of which the Examiner is taking notice, it will be appreciated if the Examiner would so inform the undersigned.

The Berkowitz reference shows a cardboard storage box of general utility, and the other two references show bottle, food and beverage carriers.

Analysis of the Conescu and Davis patents shows that there are significant differences between Applicant's bottom structure and theirs.

As it can be seen in Conescu by comparing his Figures 2 and 3, there is a central handle structure with bottle receiving compartments on both sides, and the bottom construction shown in Figure 3 spans the entire bottom of the carrier.

As it is shown in Figures 22, 25, and 26 of the Davis patent, although he, too, shows a centrally located vertical handle structure with beverage receiving compartments on both sides, he, too, uses a single bottom spanning the entire bottom of the carrier.

In contrast, Applicant uses a separate, relatively narrow bottom construction for each of the two separate receptacles. This has excellent advantages which are not expected or obvious.

First, by cutting the total span of the bottom in half, the bottom of each of the receptacles is greatly strengthened, out of proportion to the reduction in span. Thus, the bottom of Applicant's carrier can be much stronger for the same grade and thickness of materials.

Secondly, even though Applicant's construction uses twice as many flaps or flanges, the total material used in making each carrier is substantially less. This is because the flanges in Applicant's construction are much shorter than those

in the references under discussion. This can be seen easily by comparing the length of the flanges shown in Figure 23 for Applicant's carrier versus the relative length of the corresponding flanges or flaps shown in the Conescu Figure 1 and in the Davis Figure 22. This means that the total profile of the carrier blank in Applicant's carrier will be smaller by a significant amount, thus occupying significantly less area on a sheet of fiberboard from which the blank is cut. Thus, one obtains much greater strength with significantly less material usage.

The cost of materials also can be significantly less. Because of the greater strength of the bottom, materials of lesser thickness or tear strength can be used. Furthermore, the stronger bottom is believed to last longer when it is wetted by spilled beverages carried in the carrier, thus giving more time for the customer to safely carry the beverages back to his or her destination.

Finally, Applicant's bottom structure has the further unanticipated advantage, as compared with single-bottom carriers, of allowing the two halves of the carrier to be separated as shown in Figure 17 of the drawings so that advertising, etc., can be positioned on the inside surfaces of

the carrier to give more saleable advertising space to the advertiser.

In addition, being able to swing the vertical panels apart enables the carrier to be used in "piggy-back" fashion, as is the auxiliary carrier 141 shown in Figure 12 of the drawings.

All of these unobvious advantages stem from the way in which the bottom construction is used in Applicant's carrier. This way is recited in the claims and makes the claims allowable over the references.

Hart certainly does not suggest usage of this bottom construction in place of the one he shows because he explicitly recognizes the fact that there has to be double handling of the manufacturing of his carrier, which would be eliminated by Applicant's novel use of the bottom structure.

Moreover, the bottom structure adopted for the invention has been adopted contrary to normal teachings in the art. By increasing (doubling) the number of flanges used to make up the bottom structure, the number of flanges to be formed and the number of glue spots to be glued is increased. However, the Applicant has found that the increase in cost created by doing this is small relative to the benefits in materials saved, greater strength, etc., so that over all it is highly beneficial. This is counter-intuitive and unobvious.

For the foregoing reasons, the subject matter of Claims 10 and 14 is not obvious and constitutes a patentable invention.

Claim 21 has been rejected as being obvious over Plummer in view of Korte.

Claim 21, as amended, recites a finished carrier having a pair of central panels and foldable receptacles extending from each with the central panels being hinged together at their upper edges and being otherwise free to move towards and away from one another, with graphic matter displayed on at least one of the inside surfaces of the central panels. This is so that the panels can be swung apart to see the graphic matter as is shown in Figures 17 and 18 and discussed in the section entitled "ADEVERTISING SPACE" on pages 30 and 31.

As it is stated in the Specification, advertising space is an important value for carriers of the type to which the invention is directed. More advertising space means more revenue for the seller of the carrier, and gives the advertiser more opportunity to publicize and facilitate give-aways and other promotions, such as the one distributing a free CD record 228 as shown in Figure 18. Such items would be difficult to locater on the exterior surfaces of such a carrier. None of the prior art shows or suggests this feature or its advantages.

Plummer does show panels 5, but they are explicitly stated to be made of flexible fabric or netting so as to be foldable into a tiny size. (See Column 1, lines 53-59.) The principal characteristic of the material used is flexibility and compressibility into a small size. Neither netting nor highly collapsible open mesh woven cloth suggests itself at all for printability. Therefore, such construction does not show or suggest printing anything on the inside surfaces of the panels 5.

The Examiner also contends that the panels 5 are hinged together at the top edge. As far as can be told, this is not correct because the panels 5 simply are formed from a single piece of cloth, and a handle is attached at the top. Trying to spread the two panels apart with such a limp construction would be arduous indeed, and is hardly suggested by the disclosure of the Plummer patent.

Korte merely shows a bottle carrier with advertising printed on surfaces which will be visible to the consumer when the carrier and bottles are displayed on a shelf.

When the consumer buys the product, the advertising panel in front, which is folded under the bottom of the carrier, is pulled up to the position shown in Figure 2 and the handle 16 is used to carry the product out of the store.

Korte's invention seeks to deliberately hide the advertising from the public as it is carried out of the store. This is opposite to Applicant's purpose. which is to display the advertising on as great a surface area as possible. Therefore, there is no suggestion of locating advertising on the inside surfaces of the panels 11 and 12 and having the two panels hinged together at the top and constructed so that they can be swung apart to see the advertising. This is contrary to the teachings of Korte.

Moreover, there is no teaching in either Korte or Plummer which would suggest that one should be combined with the other. Without such a suggestion the divergent teachings of the two references teach away from the invention and from the combination of the references with one another. Therefore, Claim 21 is non-obvious and patentable.

Accordingly, it is respectfully submitted that the claims have been distinguished from the cited references and the application is in condition for allowance.

Approval of the proposed drawing changes and allowance of the application are respectfully requested.

Respectfully submitted,

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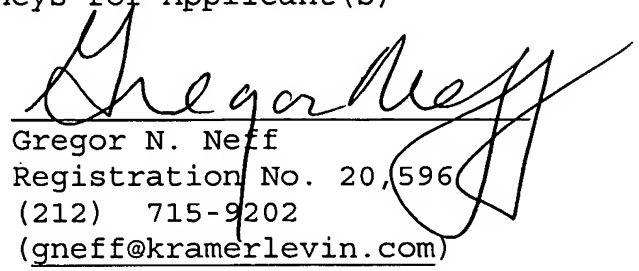
Attorneys for Applicant(s)

By: 

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Enclosures:
Drawing Sheets
U.S. Patent 2,991,908 to Consecu
U.S. Patent 5,927,593 to Berkowitz et al.
U.S. Patent 6,443,308 to Davis